

Arenson, Ethan

From: Arenson, Ethan
Sent: Tuesday, December 23, 2008 6:28 PM
To: 'Luskin, Robert'; 'Wood, Benjamin'; 'Kirsch, Thomas L.'
Cc: Robbins, Colleen B.; Christopher, Carmen L.
Subject: FTC v. Innovative Marketing, Inc.

Gentlemen:

We are in receipt of Mr. Luskin's letter dated December 23, 2008. I understand that Mr. Kirsch will be adopting many of the same arguments for his client, Ms. Ross.

We will prepare a formal response to your letter in the coming days, but in the mean time, I wish to raise with you an issue that I did not see addressed in the letter. To date, your clients have not executed the Consent To Release of Financial Records form attached to the TRO, despite the Court's order to do so. As you may know, the Supreme Court has considered and rejected the argument that this consent form has testimonial significance. See *Doe v. United States*, 487 US 201 (1988). As a result, any Fifth Amendment objection is frivolous.

I look forward to receiving a signed copy of the Consent To Release of Financial Records form no later than tomorrow.

Thank you.

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